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**Improving the Resolution of Federal
Medical Malpractice Claims**

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**Improving the Resolution of Federal Medical
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Medical malpractice claims and suits against the federal government are big business and are getting bigger. Table I illustrates the number of cases awaiting a trial date in the last half of FY 76. Table II depicts the growing number of new claims filed each year against the Department of the Army. The table illustrates the tremendous growth in new claims filed over the past five years. Other federal agencies have experienced a comparable increase in new claims in recent years. There is no indication that this trend will change directions in the near future.

The Division of Legal Medicine, Armed Forces Institute of Pathology, estimates that the federal sector made payments in excess of \$18 million in medical malpractice claims in 1976. Table III illustrates the total federal payouts for malpractice claims, as well as a comparison of the malpractice claims expenses with the total federal payout in all civil litigation matters for the past seven years.

The Secretary's Commission on Medical Malpractice, Department of Health, Education and Welfare (HEW) reported that an average of 77% of federal malpractice claimants whose cases were closed in the years 1967 through 1971 collected at least some money.¹ Payments

were made as a result of compromises entered before trial in 62% of the cases, with plaintiffs winning judgments in 15% of the cases and the defense prevailing in the remaining 23%. The same report concluded that federal agencies vary markedly in their handling of medical malpractice claims.² At the administrative claims stage the Public Health Service settled 7% of claims, the Air Force settled 15%, the Veterans Administration settled 26% and the Army settled 59%. Statistics for the Navy were not available to the HEW reviewers because the Navy had not been maintaining statistics on medical malpractice claims.

The disparity in medical malpractice claims resolution that the Secretary's Commission found in 1967 through 1971 persists relatively unchanged to date. While improvements have been made in some areas, a great deal more should be done. The purpose of this article is to identify certain problems and to recommend a method of improving the resolution of federal medical malpractice cases.

LEGISLATIVE HISTORY

The federal government long ago waived through a number of statutes its sovereign immunity against suit in many cases. The statutory variety has resulted in different prescriptions regarding the filing of tort claims and in

differing mechanisms for handling these claims. Table IV summarizes the salient features of the three claims acts that govern medical malpractice cases.

MALPRACTICE CLAIMS ARISING IN THE UNITED STATES

With the passage of the Federal Tort Claims Act (FTCA)³ in 1946 the United States accepted liability for medical negligence "under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred."⁴ However, federal liability is subject to certain exceptions that have no parallel in state law. Those that are particularly pertinent to malpractice litigation are the "incident to military service" exception,⁵ otherwise known as the *Feres* doctrine, the "discretionary function" exception,⁶ the "battery and misrepresentation" exceptions,⁷ and the statute of limitations that is not tolled for minority.⁸

When such exceptions apply, suit against the individual physician may be the sole recourse of those injured by malpractice. However, this potential course of action for claimants has been narrowed almost to nonexistence, first by case law and more recently by statute. The doctrine of official immunity has been applied in

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favor of government physicians,⁹ military personnel have been barred from suing military doctors,¹⁰ and by statute the exclusive remedy for the malpractice of health care providers in the Veterans Administration "and the Public Health Service"¹² is against the United States. The sole case holding that military physicians were not covered by the official immunity doctrine was the 1974 case of *Henderson v. Bluemink* where the Court of Appeals for the District of Columbia disagreed with other federal circuits.¹³

On October 8, 1976, Congress extended the immunity enjoyed by health care providers in the Veterans Administration and the Public Health Service to health professionals employed by the military services, including the national guard, and also to CIA-employed health providers.¹⁴ The personal immunity of federal physicians, with the government remaining the sole potential defendant, has had no measureable impact on the number of claims. The Federal Tort Claims Act covers only incidents that occur in the United States.

MALPRACTICE CLAIMS ARISING OVERSEAS

Legislation popularly known as the Military Claims Act came into existence during World War II. Initially, two statutes were involved, one pertaining to the activities of the Army¹⁵ and the other to the activities of the Navy.¹⁶ Both statutes were codified in 1956 under 10 U.S.C. § 2733.¹⁷ The roots of the Military Claims Act date back to two earlier statutes: the Act of August 24, 1912,¹⁸ which gave the Secretary of War the authority to recommend to the Congress, for payment in an amount not to exceed \$1,000.00, claims arising from damage or loss of property due to activities essentially military in nature, but not combat related; and a 1922 statute¹⁹ giving government department heads similar authority for claims arising out of the negligent conduct of any officer or employee of the United States, acting within the scope of his or her employment. These early statutes set forth the two principles contained in the Military Claims Act on which government liability is based. The 1912

statute gave rise to what is known as the "non-combat activities" doctrine, and the 1922 statute provided for the more familiar doctrine of responsibility based on respondeat superior.

The Military Claims Act is a limited exception to the doctrine of sovereign immunity. It was intended to provide an administrative means for processing, resolving and paying meritorious claims against the United States. Prior to the expansion of the Military Claims Act, Congress was forced to spend an inordinate amount of time considering private relief bills. The act is broader than its predecessors in that its coverage extends not only to property damage (real and personal), but to personal injury and death claims as well. The amount of compensation payable by a federal department has also been expanded. Currently, claims considered compensable in an amount not to exceed \$25,000.00, can be settled and paid within the particular military department concerned. Claims determined by the Secretary of the military department to be meritorious in excess of \$25,000.00 may be paid to the extent of the \$25,000.00 authority with the balance being reported to Congress for consideration in a supplemental appropriations bill.

The scope of the Military Claims Act is worldwide. However, its applicability is limited within the United States by the Federal Tort Claims Act and in foreign countries by the Foreign Claims Act.²⁰ Claimants under the Military Claims Act will generally fall into one of the following three categories:²¹

- (1) Persons abroad who are not considered inhabitants of a foreign country;
- (2) Residents of areas in which military maneuvers have been conducted;
- (3) Service members who suffer property damage not compensable under the Military Personnel and Civilian Employees Claims Act of 1964²² or the Federal Tort Claims Act.

These categories have been defined and limited to a great extent by the existence of the statutes mentioned above. The Federal Tort Claims Act, for instance, expressly prohibits claims arising in a foreign country.²³ The

Foreign Claims Act, on the other hand, applies only to those persons who are inhabitants of a foreign country. Consequently, the Military Claims Act provides the only remedy for U.S. citizens touring or conducting business in a foreign country who are injured in some manner by military personnel or civilian employees of a military department acting within the scope of their employment.

The law used to determine the merits of a claim under the Military Claims Act varies with the locus of the incident giving rise to the claim. Claims arising within the United States are determined in accordance with the law of the place wherein the incident occurred. Claims arising in a foreign country are determined by general principles of American tort law as stated in standard legal publications, with two exceptions:

(1) If contributory negligence is an issue, it will be determined in accordance with the law of the locality involved; and,

(2) If the question of fault depends on local law, *e.g.*, a motor vehicle code, that issue will be determined by the local law.

There are several restrictions on potential claims expressly stated in the Military Claims Act. Some have been referred to earlier, such as those situations when the Federal Tort Claims Act or the Foreign Claims Act are applicable. Another instance would be when the matter under consideration concerned the personal injury or death of a service member or civilian employee of a military department, incurred incident to his or her service. In the aforementioned cases the claim would not be considered. Additional limitations in the Act are that no claim will be allowed for personal injury or death caused wholly or partially by a negligent or wrongful act of the claimant, the claimant's agent, or the claimant's employee unless local law permits otherwise, *e.g.*, as in a comparative negligence jurisdiction; and that no claim will be considered unless it has been submitted in writing within two years of accrual. (This restriction may be extended for "good cause" in time of war or armed conflict.)

More restrictions affecting the administration of this Act are in the implementing regulations of the various military departments. Implementing regulations are promulgated by the secretaries of the military departments in accordance with authority granted to them by the statute. For the most part, restrictions stated in the implementing regulations are similar to those included in the Federal Tort Claims Act and are primarily minor administrative matters.

CLAIMS EVALUATION AND DISPOSITION

Since active duty military personnel are precluded from bringing medical malpractice claims or suits against the federal government, they must seek compensation through existing disability systems. The bulk of claims are, therefore, generated by military dependents, retired military personnel (for treatment received after retirement) and their dependents, and other civilians who might obtain medical care from a military source.

Medical malpractice claims in excess of \$2,500.00 must be filed under the provisions of the applicable claims act. The claimant proceeds by first filing an administrative claim on Claim Form 95. The various service judge advocate offices are responsible for investigation, evaluation and negotiation of settlements of the administrative claims. A maximum payment of \$25,000 can be made in settlement of claims at the administrative level. The United States Attorney General or his or her designee may authorize special exceptions to the \$25,000 limit for claims covered by the Federal Tort Claims Act. The secretary of the military department concerned can authorize payments in excess of the \$25,000 limit for claims filed under the Military Claims Act or Foreign Claims Act.

Federal Tort Claims Act. If the military department denies an administrative claim, the claimant has six months from the date of denial to file suit, after which the suit will be barred. This statute of limitations is tolled while the military department evaluates the claim, regardless of the length of time spent on the evaluation. The claimant may file suit against

the federal government six months after filing the administrative claim, if the department fails to settle the claim and she or he prefers to file suit and negotiate with the Department of Justice rather than the military department. Once a suit is filed in federal district court, the Department of Justice is charged with resolving or defending the action. There is no maximum dollar limit on the Department's authority to settle cases against the federal government. United States attorneys operate with a \$15,000 discretionary limit. Higher amounts require the approval of the United States Attorney General or his or her designee.

If a compromise settlement is not effected, the case will be tried before a single federal judge sitting without a jury in the United States District Court in the district in which the plaintiff resides or where the alleged negligent act occurred. The Federal Tort Claims Act provides that the applicable law will be the local law of the place where the tort occurred, regardless of the place of the trial. Juries are precluded in cases in which the federal government is the defendant. The decision of the federal judge is appealable within the federal court system.

The traditional contingent fee arrangement between the claimant and the attorney is supported by the Act, with limitations on the amount of the fee. Should the claim be settled at the administrative level, the claimant's attorney is limited to a contingent fee not to exceed 20% of the settlement. Once suit is filed the upper limit on the contingent fee rises to 25% of the plaintiff's recovery.

Military Claims Act and Foreign Claims Act. When a claim covered by these acts is determined to be lacking in merit, it is denied by the responsible claims office within the department concerned. The claimant may appeal this denial to the secretary of the department. The claimant may also request that the claim be reconsidered by the approving authority. However, the decision of an authority on an appealed determination can only be reconsidered on the basis of fraud, collusion, new or material evidence, or a manifest error of fact. There is

no court remedy available to claimants under these acts. The final decision is determined administratively in accordance with the statute and implementing regulations.

Under all claims acts a person who has a valid claim must present it in writing to the appropriate agency for an administrative determination within two years after the claim accrues.²⁴ Neither shorter nor longer state statutes may be invoked in any case involving the United States.²⁵ In addition, the two-year statute of limitations is not tolled while the plaintiff is under a disability²⁶ (e.g. minority or insanity) or while other claims are being filed,²⁷ regardless of the state law on the subject. Opinions vary, in dictum, over whether the period is tolled during the continuance of the physician-patient relationship.²⁸ The majority rule holds that a claim does not accrue within the meaning of the statute until "the claimant discovers, or in the exercise of reasonable diligence should have discovered, the acts constituting the alleged malpractice."²⁹

In *Toal v. United States*³⁰ the court further elaborated that a claim did not accrue until the plaintiff was aware not only of the negligent act but also that seemingly unrelated symptoms were caused by the act. In the *Toal* case a Veterans Administration physician had placed radiopaque dye in the plaintiff's spinal canal and then, after the diagnostic procedure was complete, failed to remove the dye. The plaintiff knew this fact at the time and suspected poor medical practice. However, it was not until two years later that he learned that his headaches were caused by the dye that had migrated to a position around his brain. The court concluded that the cause of action accrued at the time that the plaintiff became aware of the cause and effect relationship between the dye and his headaches. This decision merely illustrates judicial reluctance to foreclose litigation in cases where the cause of the injury is not obvious and in which the plaintiff, who must rely primarily on the defendant for information, has difficulty in obtaining that information.

Under exclusive remedy statutes,³¹ suits brought against federally employed health pro-

professionals may be removed to federal court (if filed in state court) and converted into suits against the United States. The Federal Tort Claims Act then becomes operative. The United States is not "estopped" from removing the suit and asserting the two year statute of limitations merely because a suit allowable against the individual defendant under a longer or tolled state statute of limitations is thereby barred.³²

PROPOSAL FOR A MODEL SYSTEM

Of the deficiencies in the present claims handling system, the most significant is the inconsistency of medical consultant opinion, leading to differing resolution of factually similar claims.³³ The Division of Legal Medicine, AFIP, is working to add some consistency to the medical input. However, much more can and should be done to resolve these cases to the better satisfaction of the claimants, their attorneys, and the military medical departments.

Since claims covered by the FTCA may be litigated in court if claimants are not satisfied with the government's attempts to resolve the cases administratively, little can be done to change this system at the moment. Claims covered by the Military Claims Act and Foreign Claims Act, on the other hand, offer great potential for the development of a model system of claims resolution. These latter acts permit government lawyers to apply general rules of medical malpractice liability. The lawyers can pick the best rules from the state cases and can effect the fairest possible settlement.

Unfortunately, claimants and their legal representatives all too often feel that government attorneys choose the case law least favorable to the claimants, and apply it to their cases along with the most unfavorable medical consultant opinions. Differing results in apparently similar cases sometimes give that appearance. A wrongful death action involving a five year old dependent in a Navy hospital in the Far East might be settled for one sum of money while the death of a five year old dependent in an Army hospital in Europe might be settled for one-half the amount, or twice the amount of the

Navy case, depending solely on the government lawyer handling the case. Since military claims attorneys do not remain in the same assignment for long, there is a constant influx of new lawyers, new ideas, and little consistency or regard for the past.

The military claims lawyer, intent upon doing a good job for his or her employer while also trying to be fair to the claimant, seeks advice on the medical facets of the claim from the most logical source. He or she goes to a senior physician in the same speciality as the defendant and in the same military service. What the military claims lawyer may fail to consider is the fact that senior physicians in the various federal departments are personally familiar with over 90% of the specialists in their field in that military department, and are familiar with the chief of service in that speciality in 100% of the hospitals in their federal department. Therefore, for example, when an Army neurosurgeon is asked to comment on the medical merits of an Army neurosurgical malpractice claim, it is a foregone conclusion that she or he will know the defendant and the defendant's superior, and she or he may even have heard about the case before a claim is filed. Knowing this, she or he cannot possibly give an unbiased opinion although she or he may try. It is this combination of military medical consultation, massaged by the military claims lawyers, and tempered by the AFIP, that results in the settlement or denial of federal claims covered by the Military and Foreign Claims Acts.

A model system for resolving these complicated cases should consist of a board of medical experts in the speciality in question, considering the case first as to liability and second as to damages. The case should be presented in written and oral briefs to the board by the military claims lawyer. The defendant's lawyer should have an opportunity to do the same. Each service should have a representative on the board and there should also be a civilian specialist in the field in question. The specialist from the same federal department as the defendant should be a nonvoting member of the board. His or her presence and input is necessary to explain any departmental differences in prac-

tice that may have a bearing on the case. By being a nonvoting member she or he can remain aloof from the decision of the board. Since, as previously noted, the specialist from the same federal department as the defendant likely will be personally familiar with the defendant it is important that she or he not have a vote on the matter. A majority decision of the three voting members should control all decisions of the board.

After determining the issue of liability, if merit is found in the claimant's case, the board would next consider damages. The military claims lawyers, aided by their consultants from the AFIP, would be required to present a brief on damages in comparable cases to the board. The brief might be on the order of a Jury Verdict Research outline.³⁴ The panel should have the option of requesting additional information if necessary to a fair determination of the issue, the panel *e.g.*, may request that a current physical examination of the claimant be performed for purposes of determining the present degree of disability.

ADVANTAGES AND DISADVANTAGES OF THE PROPOSAL

The disadvantages of the proposal will be addressed first because they are so few. The aforementioned proposal, if adopted, would require a more thorough workup of all claims by the military claims lawyers, their AFIP consultants and the reviewing board or panel. In many instances the cases are thoroughly evaluated by all parties. This proposal would insure that *all* cases are given the same full evaluation that they deserve.

A second minor disadvantage would be the cost of the civilian consultant. This would average about \$100.00 per day. A consultant might sit on one or two panels per day. In some instances more money than this is spent on civilian consultants under the present system, so this could become an advantage rather than a disadvantage.

The numerous advantages of the proposal follow:

1. The thorough evaluation of each claim by a panel of experts in the speciality insures a full discussion of all aspects of the case and an enlightened decision. A small panel will certainly consider facets of the case that, while critical, may still be overlooked by a single expert reviewer.

2. The proposal would go a long way toward developing consistency within the departments, and uniformity between departments, in the resolution of similar claims. This is desirable in order to develop some credibility among all parties to the matter.

3. This system should satisfy the claimants that a full review of their claim occurred and that it was an unbiased review in as much as the voting members of the panel were all from other federal departments and the civilian medical community.

4. The physician or nurse or other health provider defendant should be satisfied that an impartial panel reviewed the merits of the case rather than a single consultant who may have different ideas than the defendant as to what is accepted medical practice.

5. The specialist member of the panel from the same department as the defendant will insure that any unusual facets of medical practice in that department are brought to the attention of the reviewers. There is no guarantee that this will be done under the present system.

6. The specialist member of the panel from the same department as the defendant may remain impartial. Any personal bias in favor of the defendant as a result of friendship will not influence the decision of the panel since this member will not have a vote. He or she can be honest with the panel and not have to feel solely responsible for a decision adverse to the defendant as is presently often the case.

7. The proposal would expedite claims resolution and should minimize appeals to the Secretary of the Department.

8. Last but certainly not least, the exposure of several senior physicians to current malpractice claims within the federal agencies will

serve a vital need to educate. These senior specialists should be in a position to insure that what they are exposed to is digested and disseminated within their specialties and within their departments. The whole purpose being the prevention of future similar claims and the improvement of medical practice.

CONCLUSION

The federal sector presently provides medical care to approximately ten percent of the population of the United States. This group generates an appreciable number of medical malpractice claims against the federal government each year. By developing a model system for resolution of a small percentage of those claims (*i.e.* those covered by the Military and the Foreign Claims Acts) the military departments are in a position to improve the present system and develop methods that may later be applied to the bulk of federal malpractice claims (*i.e.* those covered by the Federal Tort Claims

Act). A logical further evolution of this system might also include claims filed under future national health insurance legislation.

Table I
MEDICAL MALPRACTICE CASES IN LITIGATION *
1976

	FEB	MAR	APR	MAY	JUNE
ARMY	47	48	50	51	55
NAVY	76	77	79	76	75
AIR FORCE	76	81	80	80	82
HEW	85	84	84	85	86
VA	220	225	243	247	255
BU PRISONS	28	28	38	38	41
MISC	5	9	8	8	8
TOTALS	537	552	582	585	602

* Totals include only cases where suit has been filed. Does not include cases still in administrative channels.

Source: Division of Legal Medicine, Armed Forces Institute of Pathology and Tort Section, Civil Division, United States Department of Justice.

Table II
MEDICAL MALPRACTICE CLAIMS
DEPARTMENT OF THE ARMY

Year	No. of Cases	No. Paid	Amount	Disap.	Pending	Closed	LTT
1970	41	15	\$ 549,601.04	26	0	NA	NA
1971	22	12	\$1,383,858.00	9	1	NA	NA
1972	51	24	\$ 640,312.30	21	1	2	3
1973	61	32	\$2,456,040.00	11	2	9	7
1974	78	42	\$2,448,773.35	19	4	8	5
1975	100	33	\$ 787,191.73	22	31	12	2
1976	199	40	\$ 588,639.09	44	95	10	10

Source: U.S. Army Claims Service, Fort George G. Meade, Maryland.

Table III

FY	MALPRACTICE CLAIMS COSTS*	TOTAL FEDERAL CIVIL LITIGATION PAYMENTS
70	\$ 802,956	\$11,976,028
71	\$ 1,068,212	\$15,552,372
72	\$ 2,302,129	\$15,593,827
73	\$ 2,889,050	\$26,756,095
74	\$ 5,476,505	\$32,859,067
75	\$ 6,965,498	\$27,576,214
76	\$18,404,381	\$43,947,314

* Does not include defense costs. Figures only represent money paid to claimants by way of settlement or judgment at a trial.

Source: Division of Legal Medicine (AFIP) and United States Department of Justice.

Table IV

**COMPARISON OF FEDERAL CLAIMS ACTS PERTINENT
TO FEDERAL MALPRACTICE CLAIMS**

	Foreign Claims Act	Federal Tort Claims Act	Military Claims Act
Where it applies	Outside of United States (If no Status of Forces Agreement)	United States	Worldwide
Who may be a claimant	Inhabitants of foreign country	Any person except those incident to service	Any person except those incident to service
Legal interests compensable	Property damage Personal injury Wrongful death	Property damage Personal injury Wrongful death	Property damage Personal injury Wrongful death
What conduct gives rise to a claim	Negligent or wrongful act of employee (within scope of employment for non U.S. civilian employees) or non-combat activity	Negligent or wrongful act of employee within scope of employment	Negligent or wrongful act of employee within scope of noncombat activity
Monetary limits	\$15,000 Administrative Claim. No limit with Secretary of Service approval.	25,000 Administrative claim. No limit with Department of Justice approval.	\$25,000 Administrative claim. No limit with Secretary of Service approval.
Method of Adjudication	Administrative	Administrative and Judicial Remedy	Administrative
Period for filing	2 years	2 years	2 years

Source: Portions of table extracted from ABA Law Notes, Fall 1972 Volume 9, page 18.

Notes

1. U.S. DEPT OF HEALTH, EDUCATION AND WELFARE, REPORT OF THE SECRETARY'S COMMISSION ON MEDICAL MALPRACTICE, 30-31 (1973).

2. *Id.* at 34-35.

3. 28 U.S.C. §§ 1291, 1346(b), 1402(b), 1504, 2110, 2401, 2412, and 2671-79 (1970); 28 U.S.C. §§ 2411 and 2680 (1970 and Supp. V, 1970).

4. 28 U.S.C. § 1346(b) (1970).

5. *Feres v. United States*, 340 U.S. 135 (1950).

6. 28 U.S.C. § 2680(a) (1970).

7. 28 U.S.C. § 2680(h) (Supp. V, 1970).

8. 28 U.S.C. § 2401(b) (1970).

9. *E.g.*, *Blitz v. Boog*, 328 F.2d 596 (2d Cir.), *cert. denied*, 379 U.S. 855 (1964), and *Martinez v. Shrock*, 537 F.2d 765 (3d Cir. 1976), *cert. denied*, 45 U.S.L.W. 3599 (1977).

10. *E.g.*, *Bailey v. DeQuevedo*, 375 F.2d 72 (3d Cir.), *cert. denied*, 389 U.S. 923 (1967).

11. 38 U.S.C. § 4116 (1970 and Supp. V, 1970).
12. 42 U.S.C. § 223 (1970).
13. Henderson v. Bluemink, 511 F.2d 399 (D.C. Cir. 1974).
14. Act of Oct. 8, 1976, Pub. L. No. 94-464, 90 Stat. 1985, to be codified as 10 U.S.C. § 1089.
15. Act of July 3, 1943, Pub. L. No. 78-112, 57 Stat. 372.
16. Act of Dec. 28, 1945, Pub. L. No. 79-277, 59 Stat. 662.
17. 10 U.S.C. 2733 (1970 and Supp. V, 1970).
18. Pub. L. No. 62-338, ch. 391, 37 Stat. 569, 586.
19. Act of Dec. 28, 1922, Pub. L. No. 67-375, ch. 17, 42 Stat. 1066.
20. 10 U.S.C. 2734 (1970 and Supp. V, 1970).
21. U.S. DEP'T OF ARMY, PAMPHLET No. 27-162, CLAIMS, para. 6.5f (1977).
22. 31 U.S.C. 240-243 (1970 and Supp. V, 1970).
23. 28 U.S.C. 2680(k) (1970 and Supp. V, 1970).
24. 28 U.S.C. § 2401(b) (1970).
25. Young v. United States, 184 F.2d 587 (D.C. Cir. 1950).
26. Pittman v. United States, 341 F.2d 739 (9th Cir. 1965).

27. Mendiola v. United States, 401 F.2d 695 (5th Cir. 1968).
28. Kossick v. United States, 330 F.2d 933 (2d Cir. 1964) and Ashley v. United States, 413 F.2d 490 (9th Cir. 1969).
29. Hungerford v. United States, 307 F.2d 99 (9th Cir. 1962). Accord, Beech v. United States, 345 F.2d 872 (5th Cir. 1965); Kossick v. United States, 330 F.2d 933 (2d Cir. 1964); Quinton v. United States, 304 F.2d 234 (5th Cir. 1962). *Contra*, Kington v. United States, 396 F.2d 9 (6th Cir. 1968) (if wrongful death action, claim accrues at time of death); Tessier v. United States, 269 F.2d 305 (1st Cir. 1949) (state law, which placed accrual at time of injury, governed).
30. 306 F. Supp. 1063 (D. Conn. 1969).
31. 38 U.S.C. § 4116 (1970 and Supp. V, 1970); 42 U.S.C. § 223 (1970); n.14, *supra*.
32. Reynaud v. United States, 259 F. Supp. 945 (W.D. Mo. 1966); Hoch v. Carter, 242 F. Supp. 863 (S.D. N.Y. 1965).
33. U.S. DEP'T OF HEALTH, EDUCATION AND WELFARE, REPORT OF THE SECRETARY'S COMMISSION ON MEDICAL MALPRACTICE, 34-34 (1973).
34. Jury Verdict Research, Inc., 5325 Naimon Parkway, Solon, Ohio 44139.

Judiciary Notes

U.S. Army Judiciary

ADMINISTRATIVE NOTES

1. Capital Offenses. In a number of instances, the pretrial advice as to a capital offense has shown the maximum term of confinement as "life", but specific instructions to treat the offense as non-capital were not issued. Attention is invited to paragraph 33j, MCM, 1969 (Rev. ed.), which provides in part that the indorsement on the Charge Sheet (DD Form 458) should include a direction that the capital case shall be treated as not capital.

2. Certificates of Correction. Personnel concerned are reminded that once a record of trial has been authenticated and forwarded to the convening authority, no alterations may be made to the record without the use of a certificate of correction. The original certificate of correction should be attached to the record after the original signatures authenticating the

record. There is no need to conform the original record to the certificate.

3. Supplementary Court-Martial Orders. Court-Martial orders promulgating the results of trial or disposition of the charges should reflect all the earlier court-martial orders in the case which involved the accused (for example, a suspension or remission of the sentence; restoration to duty pending completion of appellate review; vacation of a suspended sentence).

4. Court-Martial Orders—Limited Hearings. The following supplementary court-martial order may be issued where the appellate court did not set aside the findings and sentence and the convening authority determined, as authorized, that a limited hearing is impractical:

"In the (general) (special) court-martial case of . . . , the action taken by the Commander,

(designation of the convening authority's command), as promulgated in (General) (Special) Court-Martial Order Number ___, (this headquarters) (Headquarters ___), dated ___, (as modified by ___), was reviewed by the (United States Court of Military Appeals pursuant to Article 67) (U.S. Army Court of Military Review pursuant to Article 66) on ___. That court determined that a limited re-hearing should be held on the issue of (whether the original court-martial had jurisdiction over the offenses) (___). Having determined that such a limited hearing is impracticable, the findings of guilty and the sentence are set aside and the (charge is) (charges are) dismissed. All rights, privileges, and property of which the accused has been deprived by virtue of the findings of guilty and sentence so set aside will be restored.

The following supplementary court-martial order may be used where the convening authority has referred the charges for a limited hearing and the military judge has dismissed all the charges.

"In the (general) (special) court-martial case of . . . , the action taken by the Commander, (designation of the convening authority's command), as promulgated in (General) (Special) Court-Martial Order Number ___, (this headquarters) (Headquarters ___), dated ___, (as modified by ___), was reviewed by the

(United States Court of Military Appeals pursuant to Article 67), (U.S. Army Court of Military Review pursuant to Article 66) on ___. That court determined that a limited re-hearing should be held on the issue of (whether the original court-martial had jurisdiction over the offenses) (___). Pursuant to (General) (Special) Court-Martial Order Number ___, this headquarters, dated ___, and Court-Martial Convening Order Number ___, this headquarters, dated ___, (as modified by ___), a limited hearing was held at ___, on ___; thereupon the military judge dismissed the charges (on motion by defense) (___). All rights, privileges, and property of which the accused has been deprived by virtue of the findings of guilty and sentence so set aside will be restored.

5. Initial Action. In the initial action by the convening authority, various commands continue to apply forfeitures to pay and allowances when the sentence includes forfeiture of pay only. This is incorrect. See para 126h(2), MCM, 1969 (Rev. ed.). In order to avoid these errors in the future, it is suggested that offices preparing the draft action include in example (a) of the NOTE under Form 41, Appendix 14, page A14-5 of the Manual the following:

After the word "or" insert "The forfeitures shall apply to *pay* becoming due on and after the date of this action."

QUARTERLY COURT-MARTIAL RATES PER 1000 AVERAGE STRENGTH JULY-SEPTEMBER 1977

	General CM	Special CM	Summary CM	
		BCD	NON-BCD	
ARMY-WIDE	.33	.22	1.19	.70
CONUS Army commands	.22	.23	1.15	.87
OVERSEAS Army commands	.53	.19	1.27	.39
USAREUR and Seventh Army commands	.63	.15	1.36	.30
Eighth U.S. Army	.14	.20	1.40	.20
U.S. Army Japan	.62	—	—	—
Units in Hawaii	.06	.06	.77	.22
Units in Thailand	—	—	—	—
Units in Alaska	1.10	1.42	1.57	1.89
Units in Panama/ Canal Zone	.28	—	.84	2.38

NOTE: Above figures represent geographical areas under the jurisdiction of the commands and are based on average number of personnel on duty within those areas.

NONJUDICIAL PUNISHMENT QUARTERLY COURT-MARTIAL RATES PER 1000 AVERAGE STRENGTH JULY-SEPTEMBER 1977

	Quarterly Rates
ARMY-WIDE	54.50
CONUS Army commands	59.81
OVERSEAS Army commands	45.11
USAREUR and Seventh Army commands	41.39
Eighth U.S. Army	68.07
U.S. Army Japan	8.35
Units in Hawaii	52.11
Units in Thailand	—
Units in Alaska	63.19
Units in Panama/Canal Zone	51.72

NOTE: Above figures represent geographical areas under the jurisdiction of the commands and are based on average number of personnel on duty within those areas.

Law Day 1978

Since 1961 the first day of May has been designated as a special day of celebration by the American people in appreciation of their liberties and the reaffirmation of the loyalty to the United States of America; of their rededication to the ideals of equality and justice under law in their relations with each other as well as with other nations; and for the cultivation of that respect for law that is so vital to the democratic way of life.

It is the responsibility of the legal profession to take full advantage of this opportunity to encourage every citizen to reflect on our great tradition of liberty and law and to consider methods by which the legal system can be improved. It behooves all lawyers to devote considerable time and energy to the essential task of identifying the critical role of law in our society and reminding the citizenry of their rights and the role of law in the preservation of those rights. Law Day affords the valuable occasion to actively seek and jealously guard the citizens' support of the law. For without that support our legal system cannot survive.

1977 LAW DAY OBSERVANCE

Considerable planning and extensive effort on the part of the Army judge advocate officers went into Law Day '77 programs which were held at 58 Army installations in 23 states, Puerto Rico, the District of Columbia, five foreign countries and Kwajalein Atoll. News of these celebrations appeared in over 50 newspapers. At the request of Army Law Day chairpersons, eleven radio and television stations broadcast ABA spot announcements, news coverage of Law Day observances, and interviews with Army Law Day representatives. Thirty-six installations made use of displays and billboards to alert the military and civilian communities to the Law Day message. In addition, ABA and locally produced posters, stickers and pamphlets carrying the 1977 theme were distributed at schools, commissaries, post exchanges, service clubs, theater and other frequently visited locations.

THEME FOR LAW DAY 1978

The theme selected by the American Bar Association in recognition of the 21st annual nationwide observance of Law Day U.S.A. is:

THE LAW: *YOUR* ACCESS TO JUSTICE

The objective of Law Day '78 will be to foster greater public understanding about the role of the law, the courts, and the legal profession in making access to justice and legal services more readily available to all citizens. In support of this objective, Law Day committees, working closely with state and federal trial and appellate courts, should present law-related programs that tell of the Bar's genuine concern and on-going efforts to improve the administration of justice. In addition, Law Day '78 programs should focus on some of the many things the bench and bar have done, and are doing, to speed the delivery of legal services and to make the law more responsive to the fundamental needs of the public.

Law Day '78, falling on Monday this year, provides chairpersons with a good opportunity to invite and encourage church leaders of all faiths to make May First a special occasion for recognizing the role of law in establishing religious freedom.

Law Day chairpersons will receive the 1978 Planning Guide and Program Manual from the American Bar Association in January. The manual contains ideas which will assist Law Day committees in their planning and preparation for their Law Day '78 program. The Judge Advocate General's School has no material for distribution; however, additional information on how to obtain supplementary materials from state or local bar associations is contained in the ABA Guide.

1978 AFTER-ACTION REPORTS

In furtherance of JAGC participation in Law Day celebrations, all installations are again required to submit after-action reports on local celebrations to TJAGSA, ATTN: JAGS-RA,

Charlottesville, Virginia 22901, before 10 May 1978. After-action reports should be subdivided into categories of: (1) command letters and proclamations; (2) displays; (3) newspaper articles; (4) radio and television coverage; (5) religious activities; (6) school programs; (7) natu-

ralization ceremonies; (8) Law Day gatherings; (9) seminars and panel discussions; and (10) miscellaneous. Photographs, press releases and other exhibits in conjunction with observances are encouraged but should not delay the narrative reports.

Reserve Affairs Department Initiates CLE Liaison Program

Reserve Affairs Department, TJAGSA

In recent years, state bar organizations have been placing a greater emphasis on continuing education programs for the legal professions. Four states, Iowa, Minnesota, Wisconsin and Washington, have now implemented mandatory CLE rules for attorneys. The Judge Advocate General's School has a vital interest in this area as it continually strives to keep abreast of new state CLE requirements so that TJAGSA courses can be accredited. TJAGSA courses have received accreditation for CLE requirements in the four states mentioned above.

While the School is aware of most changes in this area, they often receive word of new developments through letters from reserve component JAG officers. Thus, in order to keep abreast of states that are about to impose specialization certification, mandatory CLE or other requirements that would impact on federal or military attorneys, the Reserve Affairs

Department, TJAGSA, is creating a program whereby a reserve component judge advocate officer in each state will act as a TJAGSA liaison to the state bar for CLE matters. The duties of the liaison officer will be to keep the JAG School informed as to any CLE developments or rules under consideration which would affect military lawyers. Once The Judge Advocate General's School has the information the Academic Department can then begin efforts to secure accreditation for TJAGSA courses.

Appropriate retirement point credit, pursuant to AR 140-185, will be awarded for any work done in this area. Any JAG Corps reserve component officer involved in their state bar activities and who are interested in the program should contact Captain Freer, Reserve Affairs Department, The Judge Advocate General's School, Charlottesville, Virginia 22901.

CLE News

1. Wisconsin Approves 1977 JAGC Conference for CLE Credit. The Wisconsin Board of Continuing Legal Education has approved the 1977 Judge Advocate General's Conference and Continuing Legal Education Seminars for credit toward the Wisconsin mandatory CLE requirement.

Up to 11.5 hours credit will be granted for attendance at the accredited activities. Actual attendance by the individual lawyer is determinative. All afternoon seminar sessions were approved for a total of 6.5 credits. Selected morning sessions were approved as follows:

Wednesday, 12 October 1977

0920-1000 New Developments in Criminal Law, Colonel Wayne E. Alley, Chief, Criminal Law Division, Office of The Judge Advocate General

1000-1030 Government Appellate and Defense Appellate Division Reports, Colonels Thomas H. Davis, Chief, Government Appellate Division, and Robert B. Clarke, Chief, Defense Appellate Division, OTJAG

1100-1200 Professional Responsibility, Colonel
Thomas E. Murdock, Chief, U.S.
Army Trial Judiciary

Thursday, 13 October 1977

0905-0950 Contracting Out, Lieutenant Colonel
Robert M. Nutt, Chief, Procurement
Law Division, TJAGSA

0950-1030 Army Regulations 15-6 and 600-50,
Colonel Darrell L. Peck, Chief,
Administrative Law Division,
OTJAG

1100-1130 EEO Case Preparation, Lieutenant
Colonel Carroll J. Tichenor, Chief,
Labor and Civilian Personnel Law
Office, OTJAG

Friday, 14 October 1977

0930-1000 International Law Update, Mr.
Waldemar A. Solf, International
Affairs Division, OTJAG

1010-1030 Anti-Deficiency Act, Captain (P)
Gary L. Hopkins, Senior Instructor,
Procurement Law Division,
TJAGSA (replaces Mr. Kennedy)

Attendance at all listed morning sessions would
constitute five (5) credit hours.

2. North Dakota Goes Mandatory. The North
Dakota Commission on Continuing Legal Edu-
cation has recently adopted guidelines for ad-
ministration of the new mandatory CLE pro-
gram. The guidelines include a "reciprocity"
provision which will cover the courses con-
ducted by TJAGSA. Details of the North
Dakota requirements will be published as they
become available.

3. TJAGSA CLE Courses. Information on the
prerequisites and content of TJAGSA courses
is printed in CLE News, *The Army Lawyer*,
December, 1977.

February 6-9: 6th Fiscal Law Course (5F-
F12).

February 6-10: 38th Senior Officer Legal
Orientation Course (5F-F1).

February 13-17: 4th Criminal Trial Advocacy
Course (5F-F32).

February 27-March 10: 74th Procurement
Attorneys' Course (5F-F10).

March 7-10: 39th Senior Officer Legal Ori-
entation Course (5F-F1).

March 13-17: 7th Law of War Instructor
Course (5F-F42).

April 3-7: 17th Federal Labor Relations
Course (5F-F22).

April 3-7: 4th Defense Trial Advocacy
Course (5F-F34).

April 10-14: 40th Senior Officer Legal Ori-
entation Course (5F-F1).

April 17-21: 8th Staff Judge Advocate Ori-
entation Course (5F-F52).

April 17-28: 1st International Law I Course
(5F-F40).

April 24-28: 5th Management for Military
Lawyers Course (F-F51).

May 1-12: 7th Procurement Attorneys'
Course (5F-F10).

May 8-11: 7th Environmental Law Course
(5F-F27).

May 15-17: 2d Negotiations Course (5F-
F14).

May 15-19: 8th Law of War Instructor
Course (5F-F42).

May 22-June 9: 17th Military Judge Course
(5F-F33).

June 12-16: 41st Senior Officer Legal Ori-
entation Course (5F-F1).

June 19-30: Noncommissioned Officers Ad-
vanced Course Phase II (71D50).

July 24-August 4: 76th Procurement Attor-
neys' Course (5F-F10).

August 7-11: 7th Law Office Management
Course (7A-173A).

August 7-18: 2d Military Justice II Course
(5F-F31).

August 21-25: 42d Senior Officer Legal Orientation Course (5F-F1).

August 28-31: 75th Fiscal Law Course (5F-F12).

September 18-29: 77th Procurement Attorneys' Course (5F-F10).

4. Civilian Sponsored CLE Courses.

February

1-2: LEI, Legal Aspects of Grants Seminar, Washington, D.C. Contact: Legal Education Institute—TOG, U.S. Civil Service Commission, 1900 E St. NW, Washington, DC 20415. Phone (202) 254-3483.

1-3: PLI, Fundamental Concepts of Estate Planning, Olympic Hotel, Seattle, WA. Contact: Nancy B. Hinman, Practising Law Institute, 810 7th Ave., New York, NY 10019. Phone (212) 765-5700. Cost: \$250. Course Handbook Alone: \$20.

2-3: PLI, Consumer Credit 1978, Century Plaza Hotel, Los Angeles, CA. Contact: Nancy B. Hinman, Practising Law Institute, 810 7th Ave., New York, NY 10019. Phone (212) 765-5700. Cost: \$175.

4-11: CPI, Trial Advocacy Seminar, Ramada O'Hare Inn, Chicago, IL. Contact: Court Practice Institute, Inc., 4801 W. Peterson Ave., Chicago, IL 60646. Phone (312) 725-0166. Cost: \$700.

8-15: American Bar Association, Midyear Meeting, New Orleans, LA.

9-11: ALI-ABA-Environmental Law Institute-Smithsonian Institution, Environmental Law, Washington, DC. Contact: Donald M. Maclay, Director, Courses of Study, ALI-ABA Committee on Continuing Professional Education, 4025 Chestnut St., Philadelphia, PA 19104. Phone (215) 387-3000.

12-15: NCDA, Pretrial Problems Seminar, Denver, CO. Contact: Registrar, National College of District Attorneys, College of Law, Univ. of Houston, Houston, TX 77004. Phone (713) 749-1571.

13-14: George Washington Univ. National Law Center, Labor Standards [requirements of government contractors and subcontractors], George Washington Univ. Library, 2130 H St. NW, Room 729, Washington, DC. Contact: Government Contracts Program, George Washington Univ., 2000 H St. NW, Washington DC 20052. Phone (202) 676-6815. Cost: \$275.

13-14: PLI, Government Information [Freedom of Information Act, Sunshine Act, Privacy Act], Stanford Court Hotel, San Francisco, CA. Contact: Nancy B. Hinman, Practising Law Institute, 810 7th Ave., New York, NY 10019. Phone (212) 765-5700. Cost: \$175. Course Handbook Alone: \$20.

13-14: Univ. of Santa Clara School of Law—Federal publications, Defective Pricing [government contract "truth-in-negotiation" requirements], Sheraton Natl., Arlington, VA. Contact: Miss J. K. Van Wycks, Seminar Division, Federal Publications Inc., 1725 K St. NW, Washington, DC 20006. Phone (202) 337-7000. Cost: \$400.

15-16: LEI, Seminar for Attorneys on FOI/Privacy Acts, Washington, DC. Contact: Legal Education Institute—TOG, U.S. Civil Service Commission, 1900 E St. NW, Washington, DC 20415. Phone (202) 254-3483.

18-25: CPI, Trial Advocacy Seminar, McGeorge School of Law, Univ. of the Pacific, Sacramento, CA. Contact: Court Practice Institute, Inc., 4801 W. Peterson Ave., Chicago, IL 60646. Phone (312) 725-0166. Cost: \$700.

21-22: Georgetown Univ. Continuing Management Education Seminars, E.E.O./A.A. (Equal Employment Opportunity/Affirmative Action), Ground Floor, RCA Building, 1901 N Moore St., Rosslyn, VA. Contact: Continuing Management Education—SSCE, Georgetown Univ., Washington, DC 20057. Phone (703) 525-6300. Cost: \$250.

22-24: American Academy of Forensic Sciences, Annual Meeting, Chase Park Plaza Hotel, St. Louis, MO. Contact: American Academy of Forensic Sciences, 11400 Rockville Pike, Suite 515, Rockville, MD 20852.

23-25: FBA, Southwestern Regional Conference [Seminars on Anti-trust and Trade Regulation, Bankruptcy and Federal Trial Practice], Hyatt Regency Houston, Houston, TX. Contact: Conference Secretary, Federal Bar Association, Suite 420, 1815 H St. NW, Washington, DC 20006. Phone (202) 638-0252.

26-2 Mar.: NCDA, Organized Crime, Indianapolis, IN. Contact: Registrar, National College of District Attorneys, College of Law, Univ. of Houston, Houston, TX 77004. Phone (713) 749-1571.

27-28: FBA, Shipping Law Conference, Washington, DC. Contact: Conference Secretary, Federal Bar Association, Suite 420, 1815 H St. NW, Washington, DC 20006. Phone (202) 638-0252.

27-3 Mar.: George Washington Univ. National Law Center, Contract Formation [government procurement], George Washington Univ. Library, 2130 H St. NW, Room 729, Washington, DC. Contact: Government Contracts Program, George Washington Univ., 2000 H St. NW, Washington, DC 20052. Phone (202) 676-6815. Cost: \$475.

28-2 Mar.: LEI, Institute for New Government Attorneys, Washington, DC. Contact: Legal Education Institute—TOG, U.S. Civil Service Commission, 1900 E St. NW, Washington, DC 20415. Phone (202) 254-3483.

March

6-8: Georgetown Univ. Continuing Management Education Seminars, Effective Administrative Writing, Ground Floor, RCA Building, 1901 N Moore St., Rosslyn, VA.

Contact: Continuing Management Education—SSCE, Georgetown Univ., Washington, DC 20057. Phone (703) 525-6300. Cost: \$325.

7-9: LEI, Law of Federal Employment Seminar, Washington, DC. Contact: Legal Education Institute—TOG, U.S. Civil Service Commission, 1900 E St. NW, Washington, DC 20415. Phone (202) 254-3483.

12-14: FBA-BNA: Annual Government Contracts Briefing Conference, Barclay Hotel, Philadelphia, PA. Contact: Conference Secretary, Federal Bar Association, Suite 420, 1815 H St. NW, Washington, DC 20006. Phone (202) 638-0252.

12-17: NCDA, Investigators School (location to be announced). Contact: Registrar, National College of District Attorneys, College of Law, Univ. of Houston, Houston, TX 77004. Phone (713) 749-1571.

13-15: Aspen Systems, Inc., Seminar on Medical Staff Laws and By-laws, San Juan, PR. Contact: Aspen Systems, Inc., 20010 Century Blvd., Germantown, MD 20767.

14-15: ABA Section of Litigation National Institute, Trial of an Equal Employment Opportunity Case, Williamsburg, VA. Contact: ABA National Institutes, ABA, 1155 E 60th St., Chicago, IL 60637. Phone (312) 947-3950.

14-18: NCDA, Trial Techniques, Los Angeles, CA. Contact: Registrar, National College of District Attorneys, College of Law, Univ. of Houston, Houston, TX 77004. Phone (713) 749-1571.

16-18: ALI-ABA—Emory Univ. School of Law, Practice under the Federal Rules of Evidence: Recent Developments, Atlanta, GA. Contact: Donald M. MacLay, Director, Courses of Study, ALI-ABA Committee on Continuing Professional Education, 4025 Chestnut St., Philadelphia, PA 19104. Phone (215) 387-3000.

17-18: ABA Section of Insurance, Negligence, and Compensation Law National Institute, Medical Legal Aspects of Litigation, New Orleans, LA. Contact: ABA National Institutes, ABA, 1155 E 60th St., Chicago, IL 60637. Phone: (312) 947-3950.

18-20: NCCDLPD, Defender Management Workshop, Denver, CO. Contact: Registrar, National College of Criminal Defense Lawyers and Public Defenders, Bates College of Law, Univ. of Houston, 4800 Calhoun Blvd., Houston, TX 77004. Phone (713) 749-2283.

18-25: CPI, Trial Advocacy Seminar, Fort Myers, FL. Contact: Court Practice Institute, Inc., 4801 W. Peterson Ave., Chicago, IL 60646. Phone (312) 725-0166. Cost: \$700.

20-24: Pittsburgh Institute of Legal Medicine, Medical-Legal Seminar, Lion Square Lodge, Vail, CO. Contact: Cyril H. Wecht, M.D., J.D., Director, Pittsburgh Institute of Legal Medicine, 1519 Frick Building, Pittsburgh, PA 15219.

20-24: George Washington Univ. National Law Center, Contract Administration [problems which arise during performance of government contracts], George Washington Univ. Library, 2130 H St. NW, Room 729, Washington, DC. Contact: Government Contracts Program, George Washington Univ., 2000 H St. NW, Washington, DC 20052. Phone (202) 676-6815. Cost: \$475.

21-23: LEI, Civil Rights Litigation Seminar, Washington, DC. Contact: Legal Education Institute—TOG, U.S. Civil Service Commission, 1900 E St. NW, Washington, DC 20415. Phone (202) 254-3483.

28-30: LEI, Legal Research for Paralegals Seminar, Washington, DC. Contact: Legal Education Institute—TOG, U.S. Civil Service Commission, 1900 E St. NW, Washington, DC 20415. Phone (202) 254-3483.

Collection of Local Regulations and Forms Beginning

*Lieutenant Colonel Archibald M. S. McColl, Staff Judge Advocate,
U.S. Army Administration Center, Fort Benjamin Harrison, Indiana*

The Office of the SJA, U.S. Army Administration Center, Fort Benjamin Harrison, Indiana, is undertaking the project of assembling at their Legal Center all the post, camp and station regulations and forms of local origin from around the world.

Under this system, if a local regulation or form to cover a particular situation is needed, an SJA can call the U.S. Army Administration Center's Legal Center. If another post has already prepared a regulation or form on that

situation, a copy will be sent at once. The saving in man-hours should be helpful.

Since this is obviously a large project, it is to begin with only the regulations and forms originating in JA offices.

The Fort Benjamin Harrison Legal Center therefore requests that all post, camp or station regulations (or equivalent) and forms which have originated in SJA offices, Legal Centers, Center JA offices, or equivalent, be sent to: Legal Center, USAADMINCEN, Fort Benjamin Harrison, Indiana 46216.

JAGC Personnel Section*PP&TO, OTJAG*

1. State Bar Membership. All judge advocates should stay abreast of the requirements of the bars of which they are members. Some states that previously waived annual membership dues for attorneys in the military service now require payment of these dues. Other states have instituted integrated bars with requirements of current membership. As the state bars often do not have current addresses of military members, communications affecting membership are not received. One state recently terminated membership of a number of military attorneys for nonpayment of dues by ex parte court orders of which Army judge advocates were unaware.

2. Official photographs. All judge advocates must insure that they have official photographs taken and filed in their Official Military Personnel File (OMPF) and Career Management

Information File (CMIF). The OMPF is maintained at MILPERCEN. The CMIF is maintained in the Personnel, Plans and Training Office, OTJAG. These photographs are very important. They serve as your "interview appearance" on each occasion that your file is reviewed for any purpose, including promotion or assignment consideration.

3. Officer Record Brief. Every judge advocate must insure that his or her Officer Record Brief (ORB) is correct. The ORB is an important document that is used extensively for personnel management purposes. Each officer receives an ORB annually for review. In reviewing the files of judge advocate, it has been noted that many ORBs contain errors or omissions. Each officer must take the initiative to insure correctness of his or her ORB. Consult your local personnel office for assistance.

4. Assignments.*LIEUTENANT COLONEL*

NAME	FROM	TO	APPROX DATE
COHEN, Robert E.	Electronics Cmd, Ft Monmouth, NJ	TECOM APG, MD	Jan 78

MAJOR

ARMSTRONG, Henry J.	Armed Forces Staff College, Norfolk, VA	Korea	Feb 78
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CAPTAINS

BEST, Sharon E.	Stu Det, FBH, IN	193d Inf Bde, APO NY 09834	Apr 78
HARRIS, Larry D.	Engineer Ctr, Ft Belvoir, VA	Armed Services Bd of Contract Appeals, Wash, DC	Jan 78
LAVERING, Daniel	XVIII ABN Corps, Ft Bragg, NC	USALSA, Falls Church, VA	Dec 77

REVOCATION

BUSHNELL, William	USAG, Ft Carson, CO	Korea	Jan 78
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5. RA Promotions.*LIEUTENANT COLONEL*

DOWNES, Michael M.	15 Dec 77	GREEN, James L.	14 Sep 77
DUDZIK, Joseph A.	14 Sep 77	HOLDAWAY, Ronald M.	24 Aug 77
		KENNY, Peter J.	13 Sep 77

MAJOR

ARMSTRONG, Henry J.	10 Oct 77
DE GIULIO, Anthony P.	1 Oct 77
DEMETZ, Robert A.	1 Oct 77

CW 4

KOCEJA, Daniel P.	6 Oct 77
MAY, Ralph J., Jr.	14 Sep 77
McBRIDE, Victor G.	12 Aug 77
RUSSELL, George G.	10 Oct 77
SCHIESSER, Charles	15 Sep 77
WITT, Jerry V.	15 Jul 77
WOLD, Pedar C.	29 Oct 77

GREEN, Herbert J.	13 Oct 77
HIGGINS, Bernard F.	12 Oct 77
MAGERS, Malcolm S.	7 Oct 77

6. AUS Promotions.**COLONEL**

MARDEN, Jack M.	2 Nov 77
NICHOLAS, Talbot J.	6 Nov 77

LIEUTENANT COLONEL

McGOWAN, James J.	12 Aug 76
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7. Regional Recruiters. The Judge Advocate General has designated regional recruiters throughout the continental United States, Hawaii, and Puerto Rico. Their mission is to visit each law school in the fall and serve as a point of contact with law school placement officers, ROTC units, and Recruiting Command activities. They provide information concerning opportunities for service in the Judge Advocate General's Corps and discuss service opportunities with interested law students and practicing lawyers. They are detailed in addition to, and not in place of, the Reserve JAGC officers designated as law school liaison officers. Active duty judge advocates designated as regional recruiters are as follows:

REGION	NAME AND DUTY STATION	AREA
I	CPT Jay P. Manning, Ft Devens, MA 01433	ME, NH, VT, MA, CT, RI
II	MAJ Harvey W. Kaplan, Ft. Hamilton, NY 11252	NY, Northern NJ
III	CPT Stephen P. Henderson, Ft Dix, NJ 08640	NJ, Eastern Pa.
IV	CPT George D. Reynolds, Carlisle Barracks, PA 17013	WV, Western PA
V	MAJ James C. Gleason, Lit Div, OTJAG	MD, DE
VI	MAJ Michael E. Gersten, Ft Lee, VA 23801	VA (except Charlottesville)
	CPT Vaughan Taylor, TJAGSA 22901	Charlottesville, VA
VII	LTC Anthony S. Bonfanti, MAJ Herbert D. Williams, III, Ft Bragg, NC 28307	NC
VIII	MAJ(P) Robert H. McNeill, II, Ft Jackson, SC	SC
IX	MAJ (P) B. J. Carroll, Ft Benning, GA 31905	GA, AL, FL
X	MAJ Jack F. Lane, Jr., Ft Campbell, KY	KY, TN

XI	CPT Richard W. Ashley, Ft Ben Harrison, IN 46216	MI, IN, OH
XII	CPT James K. Wolski, Ft Sheridan, IL 60037	IL, WI
XIII	CPT Dan McDougall, Ft L. Wood, MO 65475	MO, IA, MN, Southern IL
XIV	CPT David J. Livingston, Ft Carson, CO 80913	ND, SD, NE, WY, CO
XV	LTC Barrett S. Haight, Ft Leavenworth, KS 66027	KS, MO (KC only)
XVI	LTC John A. Turner, Ft Sill, OK 73503	OK, AR
XVII	CPT(P) Patrick P. Brown, Ft Polk, LA 71459	LA, MS
XVIII	MAJ Elmer A. Gates, Ft Hood, TX	East and Central TX
XIX	MAJ David McNeill, Jr., Ft Bliss, TX	West TX, NM, AZ
XX	CPT(P) Charles R. Fulbruge, III, Ft Ord, CA 93941	Southern CA
XXI	CPT(P) Robert P. Williams, Presidio of SF	Northern CA
XXII	CPT(P) Andrew J. Chwalibog, Ft Lewis, WA 98433	WA, OR, MT, ID, NV, UT
XXIII	LTC Thomas J. Kiernan, Ft Buchanan, PR	Puerto Rico
XIV	MAJ John T. Edwards, 25th Inf Div, Hawaii	Hawaii
XV	LTC Leroy F. Foreman, PP&TO, OTJAG	Wash DC

Current Materials of Interest

Return of the Reporter

The Department of the Air Force JAG REPORTER has changed its name to the REPORTER. The REPORTER is printed on colored paper with professionally set type and illustrations. Articles in the REPORTER, Volume 1, August 1977, are:

Everett and Benoit, *Community Property Rights in Retirement Pay*

Miles, *Law of Armed Conflict Conference Ends*

Van Nuys, *The Claims Reorganization*

Articles in the REPORTER, Volume 2, October 1977, are:

Babbin, *Fraud in Government Contracts*

Maywhort, *Environmental Law and the Armed Services*

Schneider, *How Private Are Your Bank Records?*

Everett, *Defense Department Agrees to Change Board Procedures*

Articles

Notification to Council of Pre-trial and Post-Trial Interviews of Accused, THE ADVOCATE, Vol. 9 No. 4, July-Aug. 1977, at 2.

Random Gate Searches, THE ADVOCATE, Vol. 9 No. 4, July-Aug. 1977, at 8.

Grabowsky, *Bar Counsel's Page: The Former Public Employee*, DISTRICT LAWYER, Vol. 2 No. 2, Winter 1977, at 6.

Bar Business, *Ethics Committee Recommendation on Former Government Attorneys in Private Practice*, DISTRICT LAWYER, Vol. 2 No. 2, Winter 1977, at 46.

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